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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,175	12/10/2003	Reinhard Berger	03191/0200578-US0	5943
7278	7590	07/28/2004	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			LORENCE, RICHARD M	
			ART UNIT	PAPER NUMBER
			3681	
DATE MAILED: 07/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/733,175	Applicant(s) BERGER ET AL	
	Examiner Richard M. Lorence	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 2,4 and 8-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/10/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office action on the merits of Application No. 10/733,175 filed on December 10, 2003 which is a continuation of PCT/DE02/02072 filed on June 7, 2002. Claims 1-11 are currently pending.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

The disclosure is objected to because of the following informalities:

In line 22 on page 1 "extend" should read - - extent - -. In line 5 on page 3 "shaft 2" should read - - shaft 8 - -. In line 9 on page 6 "Figure 4" apparently should read - - Figure 11 - -.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Braun '891 which discloses a clutch actuating device 22 for a clutch 14 in a power train of a motor vehicle which as seen in Figure 1 includes an engine 12, clutch 14, transmission 10 and control unit 30. Referring to Figure 2 the device of Braun includes actuator motor 61 driving an actuating member (the rod extending from the piston of the motor 61) and a transfer mechanism 60 for transmitting movement of the actuating member to a release element 58 movable against an opposing force of clutch spring 54.

Referring to Figure 3 the transfer mechanism has a first range of movement (when the pressure is below approximately 25 psi) in which the clutch is not disengaged, and a second range of movement at higher pressures where the actuating member causes the clutch to be disengaged. Any loose play which exists in the transfer mechanism must necessarily be taken up before any clutch disengagement can occur. Accordingly the loose play is used up in the first range.

Regarding claim 3, Braun detects a change in the rate of rotation of the engine and/or the transmission input shaft as corresponding to the transition between the first and second ranges.

Claims 1, 3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19823089 A. Note the international search report.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19845690 C. Note the international search report.

Claims 1, 3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 4426260 A. Note the international search report.

Allowable Subject Matter

Claims 2, 4 and 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Prior Art Citation

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner further cites Coté et al. '858, Cottam '497, Bates '350, Liu '295 and Lyon '379 which show clutch actuators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (703) 308-3062. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Richard M. Lorence
Primary Examiner
Art Unit 3681

Lorence/rml